

By Senator Rodriguez

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1                   A bill to be entitled  
2       An act relating to towing vehicles; amending s.  
3       323.001, F.S.; providing construction; prohibiting  
4       investigating agencies from releasing motor vehicles  
5       towed to an agency's storage facility until certain  
6       proof of payment is presented to the agency;  
7       specifying that investigating agencies that do not  
8       obtain proof of payment must pay certain charges  
9       within a specified timeframe; requiring investigating  
10      agencies to pay wrecker operators' charges relating to  
11      towing and storage within a specified timeframe if  
12      certain judicial findings are made; amending s.  
13      713.78, F.S.; revising the timeframe required for  
14      sending notices of lien; revising fees relating to  
15      obtaining the release of a vehicle or vessel with a  
16      claimed lien; deleting the definition of the term  
17      "administrative fee"; revising the definition of the  
18      term "third-party service"; specifying that proof of  
19      mailing by a third-party service is proof that a  
20      towing-storage operator made a good faith effort to  
21      comply with specified notice requirements; preempting  
22      to the state the regulation of claiming a lien for the  
23      recovery, removal, towing, or storage of a vehicle or  
24      vessel; providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:  
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28       Section 1. Subsection (1), paragraph (a) of subsection (2),  
29       and subsection (3) of section 323.001, Florida Statutes, are

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30 amended to read:

31 323.001 Wrecker operator storage facilities; vehicle  
32 holds.—

33 (1) An investigating agency may place a hold on a motor  
34 vehicle stored within a wrecker operator's storage facility for  
35 a period not to exceed 5 days, excluding holidays and weekends,  
36 unless extended in writing. This subsection may not be construed  
37 to prohibit an investigating agency from having a wrecker  
38 operator tow a motor vehicle directly from the scene of the tow  
39 to the investigating agency's storage facility. If a motor  
40 vehicle is towed directly from the scene of the tow to the  
41 investigating agency's storage facility, the vehicle may not be  
42 released by the investigating agency to the owner or lienholder  
43 of the vehicle until proof of payment of the towing and storage  
44 charges incurred by the wrecker operator is presented to the  
45 investigating agency. If the investigating agency releases the  
46 vehicle to the owner or lienholder of the vehicle without  
47 obtaining proof of payment, the investigating agency must pay  
48 the wrecker operator the accrued towing and storage charges  
49 within 60 days after the vehicle is released.

50 (2) The investigating agency must notify the wrecker  
51 operator in writing within 5 days, excluding holidays and  
52 weekends, whether the hold is to be continued. If no  
53 notification follows this period of time, the wrecker operator  
54 may release the vehicle to the designated person pursuant to s.  
55 713.78.

56 (a) If the hold is to continue beyond 5 days, excluding  
57 holidays and weekends, the investigating agency may have the  
58 vehicle removed to a designated impound lot, in which event the

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59 vehicle will not be released by the investigating agency to the  
60 owner or lienholder of the vehicle until proof of payment of the  
61 towing and storage charges incurred by the wrecker operator is  
62 presented to the investigating agency. If the investigating  
63 agency releases the vehicle to the owner or lienholder of the  
64 vehicle without obtaining proof of payment, the investigating  
65 agency must pay the wrecker operator the accrued towing and  
66 storage charges within 60 days after the vehicle is released.

67 (3) If there is a judicial finding of no probable cause for  
68 having continued the immobilization or impoundment, the  
69 investigating agency ordering the hold must pay the wrecker  
70 operator the accrued charges for any towing and storage within  
71 60 days after the judicial finding.

72 Section 2. Paragraph (c) of subsection (4), paragraph (a)  
73 of subsection (15), and paragraph (a) of subsection (16) of  
74 section 713.78, Florida Statutes, are amended, and paragraph (g)  
75 is added to subsection (16), and subsection (18) is added to  
76 that section, to read:

77 713.78 Liens for recovering, towing, or storing vehicles  
78 and vessels.—

79 (4)

80 (c) The notice of lien must be sent by certified mail to  
81 the registered owner, the insurance company insuring the vehicle  
82 notwithstanding s. 627.736, and all other persons claiming a  
83 lien thereon no earlier than 6 hours before and no later than  
84 ~~within~~ 7 business days, excluding Saturday and Sunday, after the  
85 date of storage of the vehicle or vessel. However, in no event  
86 shall the notice of lien be sent less than 30 days before the  
87 sale of the vehicle or vessel. The notice must state:

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88           1. If the claim of lien is for a vehicle, the last 8 digits  
89 of the vehicle identification number of the vehicle subject to  
90 the lien, or, if the claim of lien is for a vessel, the hull  
91 identification number of the vessel subject to the lien, clearly  
92 printed in the delivery address box and on the outside of the  
93 envelope sent to the registered owner and all other persons  
94 claiming an interest therein or lien thereon.

95           2. The name, physical address, and telephone number of the  
96 lienor, and the entity name, as registered with the Division of  
97 Corporations, of the business where the towing and storage  
98 occurred, which must also appear on the outside of the envelope  
99 sent to the registered owner and all other persons claiming an  
100 interest in or lien on the vehicle or vessel.

101           3. The fact of possession of the vehicle or vessel.

102           4. The name of the person or entity that authorized the  
103 lienor to take possession of the vehicle or vessel.

104           5. That a lien as provided in subsection (2) is claimed.

105           6. That charges have accrued and include an itemized  
106 statement of the amount thereof.

107           7. That the lien is subject to enforcement under law and  
108 that the owner or lienholder, if any, has the right to a hearing  
109 as set forth in subsection (5).

110           8. That any vehicle or vessel that remains unclaimed, or  
111 for which the charges for recovery, towing, or storage services  
112 remain unpaid, may be sold free of all prior liens 35 days after  
113 the vehicle or vessel is stored by the lienor if the vehicle or  
114 vessel is more than 3 years of age or 50 days after the vehicle  
115 or vessel is stored by the lienor if the vehicle or vessel is 3  
116 years of age or less.

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117 9. The address at which the vehicle or vessel is physically  
118 located.

119 (15) (a) A lienor or the lienor's agent may charge a \$75  
120 notification ~~an administrative~~ fee plus the actual costs of  
121 complying with the requirements of this section to the  
122 registered owner or a person claiming a lien against the vehicle  
123 or vessel to obtain release of the vehicle or vessel from the  
124 claim of lien imposed under this section. Such notification  
125 ~~administrative~~ fee plus the actual costs of complying with the  
126 requirements of this section may not exceed \$250. ~~For purposes~~  
127 ~~of this paragraph, the term "administrative fee" means a lien~~  
128 ~~fee or any fee imposed by the lienor or the lienor's agent for~~  
129 ~~administrative costs added to the amount due for towing and~~  
130 ~~storing the vehicle or vessel.~~

131 (16) A towing-storage operator must use a third-party  
132 service approved by the Department of Highway Safety and Motor  
133 Vehicles to transmit all notices required by this section. If  
134 there is no third-party service approved by the department, the  
135 towing-storage operator may mail the notices and provide  
136 evidence of compliance with this section upon submission of an  
137 application for certificate of title or certificate of  
138 destruction.

139 (a) For purposes of this subsection, the term "third-party  
140 service" means a qualified business entity that, upon a request  
141 submitted through a website by a towing-storage operator:

142 1. Accesses the owner's, lienholder's, and insurer's  
143 information, as applicable, for a vehicle or vessel from the  
144 department.

145 2. Accesses the National Motor Vehicle Title Information

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146 System records to obtain the last state of record of the vehicle  
147 only when there is not a current registration record for the  
148 vehicle or vessel on file with the department.

149 ~~2. Accesses the owner, lienholder, and insurer information,~~  
150 ~~as applicable, for a vehicle or vessel from the department.~~

151 3. Electronically generates the notices required of a  
152 towing-storage operator by this section through the website.

153 4. Prints and sends the notices required under this section  
154 to each owner, lienholder, and insurer of record by certified  
155 mail.

156 5. Electronically returns tracking information or other  
157 proof of mailing and delivery of the notices to the towing-  
158 storage operator.

159 6. Electronically reports to the department, via an  
160 electronic data exchange process using a web interface, the  
161 following information related to the towing and storage notice:

162 a. The vehicle identification number or vessel hull  
163 identification number.

164 b. The license plate number.

165 c. The name and address of the towing-storage operator or  
166 lienor.

167 d. The physical location of the vehicle or vessel.

168 e. The date on which the vehicle or vessel was towed.

169 f. The amount of storage fees owed at the time of the  
170 notice.

171 g. The date of assessment of storage charges.

172 h. The dates on which the notice was mailed and delivered.

173 i. Other information required by the department.

174 (g) If a towing-storage operator uses a third-party service

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175 approved by the department to provide notice required by this  
176 section, proof of mailing by the third-party service is proof  
177 that the towing-storage operator made a good faith effort to  
178 comply with such notice requirement, regardless of whether the  
179 recipient accepts delivery or otherwise receives notice.

180 (18) The regulation of claiming a lien for the recovery,  
181 removal, towing, or storage of a vehicle or vessel, including,  
182 but not limited to, notification fees, is preempted to the  
183 state, and this section supersedes any county or municipal  
184 ordinance, resolution, rule, regulation, or otherwise to the  
185 contrary.

186 Section 3. This act shall take effect July 1, 2023.